

Message Text

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ACTION OES-04

INFO OCT-01 IO-10 AF-06 ISO-00 ACDA-05 CIAE-00 INR-07 L-03

NSAE-00 NSC-05 EB-07 NRC-05 FEAE-00 DODE-00 /053 W

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P 111502Z NOV 75

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC PRIORITY 6672

INFO USERDA GERMANTOWN PRIORITY

C O N F I D E N T I A L SECTION 1 OF 2 IAEA VIENNA 9504

EO 11652: XGDS-1

TAGS: TECH IAEA CG

SUBJ: MISSING NUCLEAR MATERIAL IN ZAIRE

REF: (A) IAEA VIENNA 8677; (B) STATE 258733

1. MISSION REPS HAD DETAILED CONFIDENTIAL DISCUSSION ON SUBJECT WITH INSPECTOR GENERAL ROMETSCH (SWISS); S. NAKICENOVIC (YUGOSLAV), DIRECTOR SAFEGUARDS OPERATIONS DIVISION; J. BERANEK (CZECH), CHIEF OF SAFEGUARDS REGIONAL SECTION COVERING AFRICA; AND INSPECTOR R. SCHAEER (SWISS).

2. ROMETSCH CLEARLY UNDERSTANDS IMPORTANCE BEING OPEN AS POSSIBLE WITH US ON ISSUE, BUT CLAIMS HIS HANDS TIED BY IAEA LAWYERS' INTERPRETATION OF IAEA CONFIDENTIALITY OBLIGATIONS IN RELEVANT SAFEGUARDS AGREEMENT (INFCIRC/183, ARTICLE 5). MISSION USING FOLLOWING APPROACHES IN ATTEMPTING PERSUADE AGENCY THAT INFO SHOULD BE RELEASED:

(A) THE INFORMATION WAS NOT RPT NOT "OBTAINED BY" IAEA IN SENSE THAT IT IS COMMERCIALLY SENSITIVE INFORMATION CREATED BY ZAIRE WHICH IT IS THE OBJECTIVE OF ARTICLE 5 TO PROTECT. RATHER IT IS INFORMATION "GENERATED BY" IAEA IN CARRYING OUT ITS OBJECTIVE (INFCIRC/183 ARTICLE 28) TO DETECT DIVERTED
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MATERIAL IN ACCORDANCE WITH ITS RIGHTS AND

OBLIGATIONS (ARTICLE 2); (B) ARTICLES 5, 18 AND 19 PROVIDE FOR BOARD OF GOVERNORS TO BE PROVIDED WITH SUCH INFORMATION AND TO TAKE ACTION THEY DEEM APPROPRIATE: IF RELEVANT INFORMATION IS NOT GIVEN TO BOARD BY SECRETARIAT TO CONSIDER AND DETERMINE WHAT, IF ANY, ACTION IS APPROPRIATE, BOARD CANNOT FULFILL ITS STATUTORY OBLIGATION; (C) FUNDAMENTAL ISSUE OF IAEA SAFEGUARDS CREDIBILITY IS AT STAKE AND POLICY IMPLICATIONS MUST BE TAKEN INTO ACCOUNT.

3. ROMETSCH ADVISED THAT ISSUE OF CONFIDENTIALITY AND SECURITY OF SAFEGUARDS INFORMATION SUFFICIENTLY SERIOUS AND BROAD (I.E., INVOLVING OTHER AREAS SUCH AS SECURITY OF SAFEGUARDS DATA IN IAEA'S ADPA SYSTEM, OBLIGATIONS OF INSPECTORS WHO LEAVE EMPLOYMENT OF AGENCY, ETC.) THAT HE HOPING MATTER CAN BE CONSIDERED BY IAEA'S NEWLY CREATED STANDING ADVISORY GROUP OF SAFEGUARDS IMPLEMENTATION (SAGSI), WHICH HOLDS ITS FIRST MEETING THIS DECEMBER (SEE IAEA VIENNA A-394).

4. CONCERNING IMMEDIATE QUESTION OF ZAIRE, MISSION REPS RECALLED BRIEF EXCHANGE DURING OPEN PANEL DISCUSSION "SAFEGUARDS, THE PRESS AND THE PUBLIC" AT 16TH ANNUAL MEETING OF INSTITUTE FOR NUCLEAR MATERIALS MANAGEMENT, JUNE 20, 1975 IN NEW ORLEANS IN WHICH ROMETSCH WAS PARTICIPANT. PANEL MEMBERS INCLUDED DAVID BURNHAM OF NEW YORK TIMES, THOMAS COCHRAN (NATIONAL RESOURCES DEFENSE COUNCIL, INC.) AND OTHERS. MEETING HAD EXTENSIVE PRESS COVERAGE. (COPIES OF ENTIRE TRANSCRIPT PANEL DISCUSSION AVAILABLE FROM G. ROBERT KEEPIN OF LASL). DR. ROMETSCH'S OPENING STATEMENT INCLUDED FOLLOWING: QUOTE WE HAVE, THIS YEAR, SOME 80 . . . SAFEGUARDS AGREEMENTS IN FORCE. ABOUT HALF OF THEM ARE CONFIDENTIAL

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WITH STATES PARTY TO THE NON-PROLIFERATION TREATY; AND THE SAFEGUARDS AGREEMENTS HAVE TAKEN, ACCORDINGLY, THE FORM AS REQUIRED BY THAT TREATY. IN 1974, NEARLY 600 INSPECTIONS AT 172 FACILITIES AND OVER 100 OTHER LOCATIONS WHERE NUCLEAR MATERIAL IS KEPT HAVE BEEN DONE BY AGENCY INSPECTORS. THESE INSPECTIONS COVERED SOME 6000 KILOGRAMS

OF PLUTONIUM IN DIFFERENT FORMS, SOME TWO MILLION KILOGRAMS OF ENRICHED URANIUM AND SOME FOUR MILLION KILOGRAMS OF NATURAL URANIUM. IN SOME CASES WE DID DETECT STATISTICALLY SIGNIFICANT AMOUNTS OF NUCLEAR MATERIAL MISSING. NONE OF THOSE CASES, HOWEVER, WAS CONSIDERED TO BE OF SUCH IMPORTANCE THAT IT TRIGGERED THE NON-COMPLIANCE PROCEDURE ENDING UP IN A DISCUSSION IN THE SECURITY COUNCIL WITH THE NECESSARY WORLD-WIDE PUBLICITY. BUT OF COURSE, THAT INVOLVES JUDGMENT: WHAT AMOUNT IS SUFFICIENTLY IMPORTANT TO MAKE A NON-COMPLIANCE CASE?

QUOTE I CAN GIVE YOU AN EXAMPLE: WE HAVE DETECTED THAT ABOUT HALF A KILOGRAM OF ENRICHED URANIUM, CONTAINING SOME 100 GRAMS OF U-235 IS MISSING AT A CERTAIN FACILITY. WE HAVE PROVEN, BY INVESTIGATION AND RE-INVESTIGATION, THAT IT IS REALLY MISSING AND HAS, IN FACT, DISAPPEARED. WE HAVE TAKEN THE NECESSARY ACTION TO INFORM THE STATE ABOUT IT, BUT WE HAVE NOT CONSIDERED IT NECESSARY TO MAKE OUT OF THAT A NON-COMPLIANCE CASE. END QUOTE.

LATER IN PANEL'S DISCUSSION, FOLLOWING EXCHANGE TOOK PLACE: QUOTE DR. COCHRAN: I WOULD LIKE TO ASK DR. ROMETSCH TO TELL US A LITTLE MORE ABOUT THIS ONE KILOGRAM. WHAT WAS THE ENRICHMENT, WHAT COUNTRY, WHAT FACILITY? WHAT CAN YOU TELL US ABOUT IT, SO WE CAN FIND OUT HOW PERFECT THE RECORD IS? QUOTE DR. ROMETSCH: WHAT I'M ABLE TO TELL YOU, I HAVE TOLD YOU. IT WAS NOT ONE CONFIDENTIAL

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KILOGRAM; IT WAS 500 GRAMS. IT CONTAINED 100 GRAMS OF U-235. I CERTAINLY AM NOT ALLOWED TO TELL YOU WHICH COUNTRY AND WHAT KIND OF FACILITY. I CAN TELL YOU THAT IT IS CLEARLY ESTABLISHED THAT OUR INSPECTOR HAS DETECTED THAT THIS MATERIAL IS MISSING AND HAS, AFTER RE-INVESTIGATION, THE PROOF THAT IT COULD NOT BE FOUND AGAIN. JUDGING FROM THE QUANTITY, WE HAVE DECIDED THAT NO FURTHER ACTION IS NECESSARY. QUOTE DR. COCHRAN: WAS IT THE UNITED STATES? QUOTE DR. ROMETSCH: NO. END QUOTE

5. AT SUGGESTION MISOFFS, ROMETSCH PREPARED AND CLEARED WITH AGENCY LAWYERS FOLLOWING ELABORATION OF THAT GENERAL STATEMENT: QUOTE AT THE

16TH MEETING OF THE INSTITUTE OF NUCLEAR MATERIALS

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ACTION OES-04

INFO OCT-01 IO-10 ISO-00 AF-06 ACDA-05 CIAE-00 INR-07 L-03

NSAE-00 NSC-05 EB-07 NRC-05 FEAE-00 DODE-00 /053 W

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FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC PRIORITY 6673

INFO USERDA GERMANTOWN PRIORITY

C O N F I D E N T I A L SECTION 2 OF 2 IAEA VIENNA 9504

MANAGEMENT (INMM) IN NEW ORLEANS IN JUNE
1975, I GAVE AN EXAMPLE OF JUDGING THE
IMPORTANCE OF NUCLEAR MATERIAL QUANTITY WHICH
WAS FOUND MISSING.

QUOTE THE DISCOVERY THAT ITEMS WERE
MISSING WAS MADE BY AN IAEA INSPECTOR IN
THE PRESENCE OF THE NUCLEAR MATERIAL
CUSTODIAN OF THE FACILITY AT THE OCCASION OF
AN INVENTORY CHECK IN THE FRESH FUEL STORE.
IMMEDIATELY A SEARCH WAS MADE WHICH WAS, HOWEVER,
UNSUCCESSFUL. THE CASE WAS THEN REPORTED TO THE
DIRECTOR OF THE INSTITUTE. THE IAEA INSPECTOR
DREW ATTENTION ON THE NOTIFICATION WHICH SHOULD
BE MADE IN COMPLIANCE WITH THE NPT SAFEGUARDS
AGREEMENT AND THE CORRESPONDING SUBSIDIARY
ARRANGEMENTS.

QUOTE THE FOLLOWING DAY THE IAEA INSPECTOR
WAS INFORMED ON THE INVESTIGATION STARTED BY THE
INSTITUTE SECURITY STAFF ASSISTED BY THE POLICE.
AS SPECIAL REPORT WAS MADE TO THE IAEA HEADQUARTERS
IN VIENNA BY TELEGRAM AND BY LETTER. THE IDENTITY
OF THE ITEMS AND THE QUANTITY OF NUCLEAR MATERIAL
WAS PRECISELY STATED. AN INDICATION WAS ALSO
GIVEN THAT THE MATERIAL HAD IN ALL PROBABILITY

BEEN STOLEN.
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QUOTE THE AGENCY ACKNOWLEDGED THE SPECIAL REPORT AND REMOVED THE CORRESPONDING AMOUNT FROM THE OFFICIAL NUCLEAR MATERIAL INVENTORY. HOWEVER, ATTENTION WAS DRAWN OF THE AUTHORITIES INVOLVED THAT THE QUANTITY OF NUCLEAR MATERIAL MISSING AS WELL AS THE CIRCUMSTANCES UNDER WHICH IT WAS REMOVED FROM THE INVENTORY WOULD BE NOTED FOR FURTHER REFERENCE AND EVALUATION.

QUOTE AS A RESULT OF INTERNAL EVALUATION IN THE AGENCY'S SAFEGUARDS DEPARTMENT IT WAS CONCLUDED THAT THE NUCLEAR MATERIAL QUANTITY IN QUESTION WAS TOO SMALL TO REQUIRE FURTHER ACTION IN THE SENSE OF A NON-COMPLIANCE CLAIM. THE QUANTITY OF THE TOTAL URANIUM WAS BELOW 400 GRAMS WITH LESS THAN 80 GRAMS CONTAINED U-235.

QUOTE SOME TIME LATER A FURTHER COMMUNICATION ON THE MATTER WAS RECEIVED FROM THE AUTHORITIES OF THE COUNTRY WHERE THE MATERIAL HAD DISAPPEARED. IT CONFIRMED THAT ALL FURTHER SEARCHES WERE FRUITLESS. IT INDICATED THAT THE SECURITY MEASURES AT THE FACILITY HAS BEEN STEPPED UP IN GENERAL AND THAT PARTICULARLY ALL DOORS LEADING TO LOCATIONS WHERE NUCLEAR FUEL WAS STORED OR USED WERE EQUIPPED WITH DOUBLE LOCK. END QUOTE

6. THE ABOVE ELABORATION IS OFFERED BY ROMETSCH AS EXAMPLE OF HOW AGENCY DEALS WITH REAL BUT UNIDENTIFIED CASE IN WHICH LOSS OF A SMALL QUANTITY OF NUCLEAR MATERIAL IS DETECTED BY AGENCY INSPECTOR. HE NOTED THAT THIS IS EXAMPLE OF IAEA SAFEGUARDS WORKING PROPERLY; I.E., DETECTING ABSENCE OF MATERIAL. THE ABSENCE APPARENTLY HAD NOT BEEN NOTICED BY OFFICIALS AT THE FACILITY IN QUESTION. THE ELABORATION COVERS ALL POINTS RAISED IN PARA 2 REFTTEL B.
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7. ANY CONNECTION WHICH U.S. OFFICIALS WISH TO MAKE BETWEEN THIS NAMELESS EXAMPLE AND THE MATERIAL MISSING FROM RESEARCH REACTOR IN ZAIRE WOULD BE ENTIRELY THE RESPONSIBILITY OF THOSE U.S. OFFICIALS. NEITHER DR. ROMETSCH NOR ANY AGENCY EMPLOYEE IS AUTHORIZED TO STATE OR IMPLY THAT ZAIRE IS THE SUBJECT COUNTRY.

8. REGARDING POSSIBLE APPROACH TO ZAIRE ABOUT RELEASING INFORMATION, ROMETSCH ADVISED THAT AGENCY LEGAL OPINION INTERPRETS ARTICLE 5 OF INFCIRC/183 AS PRECLUDING AGENCY FROM COMMUNICATING THE INFORMATION EVEN IF ZAIRE CONSENTS. IF ZAIRE OFFICIALS, HOWEVER, WISHED TO MAKE "THEIR SIDE" OF STORY AVAILABLE TO U.S.G., OR ANYONE ELSE, AGENCY WOULD HAVE NOT BASIS FOR OBJECTION. IF INTENTION IS FOR U.S. OFFICIALS TO IDENTIFY ZAIRE PUBLICLY AS SUBJECT OF ROMETSCH ELABORATION PER PARA 5, CONSIDERATION SHOULD BE GIVEN TO INFORMING THAT GOVERNMENT OF SUCH INTENTION, IN ORDER TO AVOID ZAIRE OBJECTION TO IAEA DIR GEN OR AT BOARD OF GOVERNORS. ROMETSCH (AND MISSION) BELIEVES GENERAL QUESTION OF EXTENT TO WHICH INFORMATION CONCERNING AGENCY'S SAFEGUARDS ACTIVITIES MAY BE PROVIDED TO BOARD WILL BE MATTER FOR BOARD'S CONSIDERATION. ANY COMPLAINT BY MEMBER STATE PRIOR TO WELL- PREPARED BOARD CONSIDERATION WOULD PREJUDICE EFFORTS TO RESOLVE GENERAL QUESTION FAVORABLY. LABOWITZ

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